S.B. CRIMINAL REVISION PETITION NO.1021/2006
(Shanker Lal Vs. State & Ors.)

Date of order : 3.4.2007

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

Mr. D.D. Chitlangi, for the petitioner.
Mr. Ashok Upadhyay, Public Prosecutor.

Heard learned counsel for the petitioner.

By way of present revision petition, the petitioner-complainant has challenged the judgment dated 24.1.2006 passed by Judicial Magistrate First Class, Lunkaransar, Bikaner in Criminal Case No.310/2002 whereby he has acquitted all the non-petitioners for offence under Section 147, 447 and 379/149 I.P.C.

It is contended by the learned counsel for the petitioner that the learned trial court has committed an error while acquitting the non-petitioners knowingly well that there is sufficient material available on record and he has ignored the material evidence, which has come on record. Therefore, the judgment under revision requires to be set aside.

It is submitted by the learned counsel for the petitioner that in this case FIR was filed at P.S. Loonkaransar, District Bikaner against non-petitioner

Nos. 2 to 6 and after usual investigation, the police has filed negative final report. However upon protest petition preferred by the complainant, the learned trial court has recorded the statement of AW/1 – Madan Lal and AW/2 – Om Prakash under Section 200 and thereafter cognizance was taken against the non-petitioner Nos. 2 to 6 for offence under Sections 447, 147 and 379 I.P.C. The learned trial court after trial while giving benefit of doubt acquitted all the non-petitioners which is erroneous. Learned counsel for the petitioner states that from the statement of PW-1, PW-2 and PW-3, it is clear that the respondents entered in the field of the petitioner and destroyed the crops and took the crop of 'chana' in their camel cart but the learned trial court has failed to consider this aspect of the matter.

I have perused the judgment dated 24.1.2006 impugned by the petitioner. Learned trial court while discussing the statements of entire prosecution witnesses came to the conclusion that in the said dispute land was purchased by accused Ram Pratap from one Smt. Ravati Devi, who was having share in that agricultural field and her statements were recorded as DW-1. Learned trial court has also given weightage to the statement of DW-2 Shankar and DW-3 Ram Pratap and held that accused Ram Pratap purchased 1/4th part of the agricultural land from Smt. Ravati Devi, who was one of the share holders of the said agricultural

field. Therefore, no offence is committed by the non-petitioners under Section 447 I.P.C. Likewise, it is also observed by the learned trial court that the crops which was standing in the share of accused Ram Pratap in the said agricultural field was belonging to the non-petitioners and non-petitioners were in possession of 1/4th share of the said agricultural field and on that basis the learned trial court has acquitted the non-petitioners.

I see no reason to interfere with the finding of the learned trial court. Hence, the revision petition is dismissed.

(GOPAL KRISHAN VYAS), J.

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